

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

MARGARET SANDERS :
v. : Civil Action WMN-00-3434
THE GUARDIAN LIFE INSURANCE :
COMPANY OF AMERICA, et al. :

MEMORANDUM & ORDER

Before the Court are Motions to Dismiss filed by Defendant Alpharma USPD, Inc. ("Alpharma") (Paper No. 12) and Defendant The Guardian Life Insurance Company of America ("Guardian") (Paper No. 15).¹ Both motions are premised on the argument that Plaintiff fails to state a claim upon which relief can be granted because Plaintiff's state law claims for breach of contract and negligence under her deceased husband's employee benefit plan are completely preempted by the Employee Retirement Income Security Act, 29 U.S.C. § 1001, et seq. ("ERISA"). Therefore, as Plaintiff brings no claim under ERISA, none of the claims asserted in the complaint are actionable.

The Court does not dispute Defendants' assertions. However, on January 30, 2001, the Court granted Plaintiff leave to amend her complaint. Plaintiff's amended complaint, which was filed on February 5, 2001, includes allegations of ERISA violations on the part of each Defendant, thus rendering the motion's to dismiss moot.

Accordingly, IT IS this 29th day of March, 2001, by the United

¹The Motions are identical as Defendant Guardian incorporates by reference the memorandum in support of its motion to dismiss filed by Defendant Alpharma.

States District Court for the District of Maryland, ORDERED:

1. That Defendant Alpharma USPD, Inc.'s Motion to Dismiss (Paper No. 12) is hereby DENIED as moot;
2. That Defendant The Guardian Life Insurance Company of America's Motion to Dismiss (Paper No. 15) is hereby DENIED as moot; and
3. That the Clerk of the Court shall mail or transmit copies of this Order to all counsel of record.



William M. Nickerson
United States District Judge